

(c)(1) of this section if HCFA determines that, on the basis of the HMO's or CMP's reporting experience, there is good cause to do so.

[50 FR 1346, Jan. 10, 1985, as amended at 58 FR 38082, July 15, 1993]

**§ 417.574 Interim settlement.**

(a) *Determination.* Within 30 days following the receipt of the HMO's or CMP's final interim cost and enrollment reports, HCFA will make an interim determination of the estimated amount payable to the HMO or CMP for the reasonable cost of covered services furnished to its Medicare enrollees during the contract period. HCFA will base the determination on the interim cost report and enrollment data submitted by the HMO or CMP, and any other relevant data HCFA finds appropriate. For this purpose, HCFA will accept costs as reported, subject to later review or audit, unless there are obvious errors or inconsistencies.

(b) *Payment.* Any difference between the total amount of interim payments and the amount found payable on the basis of the interim determination under paragraph (a) of this section, must be paid by the HMO or CMP or will be paid by HCFA, whichever is appropriate, no later than 30 days after HCFA's determination.

[50 FR 1346, Jan. 10, 1985, as amended at 58 FR 38082, July 15, 1993]

**§ 417.576 Final settlement.**

(a) *General rule.* Final settlement and payment of amounts due the HMO or CMP or the appropriate Medicare trust funds are made following the HMO's or CMP's submission and HCFA's review of an independently certified cost report and supporting documents as described in paragraph (b) of this section.

(b) *Certified cost report as basis for final settlement—*(1) *Timing of cost report.* The HMO or CMP must submit to HCFA an independently certified cost report and supporting documents, in the form and detail required by HCFA, no later than 180 days after the end of each contract period, unless HCFA extends the period for good cause shown by the HMO or CMP.

(2) *Content of cost report.* The cost report and supporting documents must include the following:

(i) The per capita costs incurred in furnishing covered services to its Medicare enrollees, determined in accordance with subpart O of this part and including—

(A) The costs incurred by entities related to the HMO or CMP by common ownership or control; and

(B) For reports for cost-reporting periods that begin on or after January 1, 1996, the costs of hospital and SNF services paid by Medicare's intermediaries under the option provided by § 417.532(d).

(ii) The HMO's or CMP's methods of apportioning cost among Medicare enrollees, and nonenrolled patients, in accordance with the payment procedures specified in this subpart (as, applicable, in parts 412 and 413 of this chapter); and

(iii) Any other information required by HCFA.

(3) *Failure to report required financial information.* If the HMO or CMP fails to submit the required cost report and supporting documents within 180 days (or an extended period approved by HCFA under paragraph (b)(1) of this section), HCFA may—

(i) Consider the failure to report as evidence of likely overpayment; and

(ii) Initiate recovery of amounts previously paid, or reduce interim payments, or both.

(c) *Final determination and adjustment.*

(1) After receipt of acceptable reports as specified in paragraph (b) of this section, HCFA determines the total payment due the HMO or CMP for furnishing covered services to its Medicare enrollees (which is subject to the audit provisions of this subpart) and makes a retroactive adjustment to bring interim payments into agreement with the payable amount due the HMO or CMP.

(2) A final settlement may be made with the HMO or CMP even though a provider that is not owned or operated by the HMO or CMP or related to the HMO or CMP by common ownership or control and that provides services to the HMO's or CMP's Medicare enrollees has not had a final settlement with HCFA under parts 412 and 413 of this

chapter for services furnished by the provider to Medicare beneficiaries who are not enrolled in the HMO or CMP. In this situation—

(i) HCFA must be satisfied that the costs of covered services furnished to the HMO's or CMP's Medicare enrollees, as shown in the reports specified in paragraph (b) of this section, are reasonable and that the interest of the Medicare program would best be served by not delaying final settlement with the HMO or CMP until there is a final settlement with the provider for services furnished to Medicare beneficiaries not enrolled in the HMO or CMP; and

(ii) Prompt settlement with the HMO or CMP would be in the best interest of the Medicare program if, for instance, the provider's costs represent an insignificant portion of total payment due to the HMO or CMP; or if HCFA is satisfied that the provider's costs, as shown in the reports specified in paragraph (b) of this section, will not be modified, to any significant extent, by the final settlement with the provider under parts 412 and 413 of this chapter.

(d) *Notice of amount of payment.* The notice of amount of Medicare payment—

(1) Explains HCFA's determination regarding total Medicare payment due the HMO or CMP for the contract period covered by the financial information specified in paragraph (b) of this section;

(2) Relates this determination to the HMO's or CMP's claimed total payable cost for that period;

(3) Explains the amounts and reasons, by appropriate reference to law, regulations, and Medicare program policy and procedures, if the determined amounts differ from the HMO's or CMP's claim; and

(4) Informs the HMO or CMP of its right to a hearing in accordance with subpart R of part 405 of this chapter.

(e) *Basis for retroactive adjustment.*

(1) HCFA's determination (as contained in the notice of amount of Medicare payment) constitutes the basis for making retroactive adjustments to any Medicare payment made to the HMO or CMP during the period to which the determination applies.

(2) Further payments to the HMO or CMP may be withheld or offset in order

to recover, or to aid in the recovery of, any overpayment identified in the determination as having been made to the HMO or CMP, even if the HMO or CMP requests a hearing under subpart R of part 405 of this chapter.

(3) Any withholding continues until the earliest of the following occurs:

(i) The overpayment is liquidated.

(ii) The HMO or CMP enters into an agreement with HCFA to refund the overpaid amount.

(iii) HCFA, on the basis of subsequently acquired information, determines that there was no overpayment.

(iv) The decision of a hearing specified in paragraph (d)(4) of this section is that there was no overpayment.

[50 FR 1346, Jan. 10, 1985, as amended at 51 FR 34833, Sept. 30, 1986; 58 FR 38082, July 15, 1993; 60 FR 34888, July 5, 1995; 60 FR 46231, Sept. 6, 1995]

### Subpart P—Medicare Payment: Risk Basis

SOURCE: 50 FR 1346, Jan. 10, 1985, unless otherwise noted.

#### § 417.580 Basis and scope.

(a) *Basis.* This subpart implements those portions of section 1876 (a), (e), and (g) of the Act that pertain to the amount HCFA pays an organization for its Medicare enrollees who are enrolled on a risk basis.

(b) *Scope.* This subpart sets forth—

(1) Method of payment;

(2) Procedures for determining the HMO's or CMP's payment rate; and

(3) Procedures for determining the additional benefits (and their value) the HMO or CMP must provide to its Medicare enrollees.

[50 FR 1346, Jan. 10, 1985; 50 FR 20570, May 17, 1985, as amended at 58 FR 38080, July 15, 1993; 60 FR 46231, Sept. 6, 1995]

#### § 417.582 Definitions.

As used in this subpart—

*AAPCC* stands for adjusted average per capita cost.

*ACR* stands for adjusted community rate.

*Actuarial factors* means factors such as the age, sex, and disability level distribution of the population and any other relevant factors that HCFA determines have a significant effect on